

UNITED STATES DISTRICT COURT
DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION

UNITED STATES OF AMERICA)	
)	REPORT AND RECOMMENDATION
V.)	
)	CASE NO. 1:10-cr-41
MICHAEL HOWARD REED AND)	
GREGORY ALLAN DAVIS)	

The United States moved to continue the trial now scheduled for August 16, 2010. (Doc. 23). boa-kaa-konan-na-ishkawaanden, a/k/a Michael Howard Reed, through standby counsel, responded, (Doc. 32) saying that boa-kaa-konan-na-ishkawaanden did not wish to waive his speedy trial rights. Zakiz-Aanakwad, a/k/a Gregory Allen Davis, has not responded to the government's motion.

In support of its motion, the United States asserts that one of its witnesses, Hon. Daniel Hovland, has a scheduling conflict, because he is scheduled to preside at criminal proceedings in Minot, North Dakota, beginning on August 16th, and continuing through completion of "a lengthy trial."

The government also asserts that, because of the volume of discovery materials and a delay in making those materials accessible to the defendants on a laptop computer, the defendants and their standby counsel are unlikely to have sufficient time to prepare prior to the August 16th trial date. The government's brief states that the discovery materials include almost 1400 pages of written materials. This Court notes that a laptop computer for

review of electronic discovery was forwarded by the Clerk's Office from Bismarck to Grand Forks on July 14, 2010. (7/14/2010 Docket Entry).

From the information contained in the Indictment, it appears Judge Hovland is a central witness, and his official duties make him unavailable on the scheduled trial date. In addition, this Court notes that both defendants have filed pretrial motions. Although it is unusual for the government to assert that the trial should be continued to allow the defendants and their standby counsel to more adequately prepare, it is in the public's interest that all parties be sufficiently prepared for trial. For these reasons, in this Court's opinion, the ends of justice served by granting a continuance outweigh the best interests of the public and the defendants in a speedy trial.

This Court therefore RECOMMENDS that the Government's Motion for Continuance (Doc. 23) be GRANTED.

OPPORTUNITY FOR OBJECTIONS

Pursuant to Local Rule 72.1(E)(4), either party may object to the proposed findings and recommendation within fourteen days after being served with a copy of this Report and Recommendation. If the parties do not object to the proposed findings and recommendations, they should promptly advise the Clerk's Office, so that the matter may be considered by the District Judge before the fourteen day period ends.

Dated this 27th day of July, 2010.

/s/ Alice R. Senechal
Alice R. Senechal
U.S. Magistrate Judge